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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/087,933	03/05/2002	Holger Jahn	1891/50917	5283

23911 7590 07/23/2004
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EXAMINER

ROYAL, PAUL

ART UNIT PAPER NUMBER

3611

DATE MAILED: 07/23/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/087,933

Applicant(s)

JAHN, HOLGER

Examiner

Paul Royal

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 April 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 7-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-11, 13-19, 21 is/are rejected.
- 7) ☒ Claim(s) 12 and 20 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Specification

1. The disclosure is objected to because of the following informalities: the specification does not show the angle symbol " β " as indicated in the drawings and claims. Appropriate correction is required.

Response to Amendment

2. The amendment to the claims filed on 14 April 2004 does not comply with the requirements of 37 CFR 1.121(c) because claim 18 does not include a status identifier.

Amendments to the claims filed on or after July 30, 2003 must comply with 37 CFR

1.121(c) which states:

(c) *Claims*. Amendments to a claim must be made by rewriting the entire claim with all changes (e.g., additions and deletions) as indicated in this subsection, except when the claim is being canceled. Each amendment document that includes a change to an existing claim, cancellation of an existing claim or addition of a new claim, must include a complete listing of all claims ever presented, including the text of all pending and withdrawn claims, in the application. The claim listing, including the text of the claims, in the amendment document will serve to replace all prior versions of the claims, in the application. In the claim listing, the status of every claim must be indicated after its claim number by using one of the following identifiers in a parenthetical expression: (Original), (Currently amended), (Canceled), (Withdrawn), (Previously presented), (New), and (Not entered).

(1) *Claim listing*. All of the claims presented in a claim listing shall be presented in ascending numerical order. Consecutive claims having the same status of "canceled" or "not entered" may be aggregated into one statement (e.g., Claims 1-5 (canceled)). The claim listing shall commence on a separate sheet of the amendment document and the sheet(s) that contain the text of any part of the claims shall not contain any other part of the amendment.

(2) *When claim text with markings is required*. All claims being currently amended in an amendment paper shall be presented in the claim listing, indicate a status of "currently amended," and be submitted with markings to indicate the changes that have been made relative to the immediate prior version of the claims. The text of

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any added subject matter must be shown by underlining the added text. The text of any deleted matter must be shown by strike-through except that double brackets placed before and after the deleted characters may be used to show deletion of five or fewer consecutive characters. The text of any deleted subject matter must be shown by being placed within double brackets if strike-through cannot be easily perceived. Only claims having the status of "currently amended," or "withdrawn" if also being amended, shall include markings. If a withdrawn claim is currently amended, its status in the claim listing may be identified as "withdrawn—currently amended."

(3) *When claim text in clean version is required.* The text of all pending claims not being currently amended shall be presented in the claim listing in clean version, *i.e.*, without any markings in the presentation of text. The presentation of a clean version of any claim having the status of "original," "withdrawn" or "previously presented" will constitute an assertion that it has not been changed relative to the immediate prior version, except to omit markings that may have been present in the immediate prior version of the claims of the status of "withdrawn" or "previously presented." Any claim added by amendment must be indicated with the status of "new" and presented in clean version, *i.e.*, without any underlining.

(4) *When claim text shall not be presented; canceling a claim.*

(i) No claim text shall be presented for any claim in the claim listing with the status of "canceled" or "not entered."

(ii) Cancellation of a claim shall be effected by an instruction to cancel a particular claim number. Identifying the status of a claim in the claim listing as "canceled" will constitute an instruction to cancel the claim.

(5) *Reinstatement of previously canceled claim.* A claim which was previously canceled may be reinstated only by adding the claim as a "new" claim with a new claim number.

Since the reply filed on 14 April 2004 appears to be *bona fide*, the applicant has been examined on the merits. Correction is required in applicant's response to this office action.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

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3. Claims 8-11, 13, and 16-17 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 7 and 14, from which these groups of claims respectively depend, recite the running profile is asymmetrically disposed ~~the~~ with respect to the tire carcass center plane, however claims ^{8-11, 13} ~~8-13~~ and 16-17 recite the running profile is symmetrically configured ~~the~~ with respect to the tire carcass center plane. The independent claims are drawn to a species of tire which is asymmetric which the relevant dependent claims are inappropriately drawn to a species of tire which is symmetric.

Note, this necessitates a withdrawal of the indication, in the Office Action of 13 January 2004, claims 9-10, and 13 would be allowable if rewritten in independent form.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 7, 14, 15, 18, 19, 21 is rejected under 35 U.S.C. 103(a) as being unpatentable over Minnebraker (4,351,540) in view of Harms (US 6,142,201).

Minnebraker teaches a wheelchair assembly comprising:

a wheelchair seat (38) for a wheelchair occupant, and a pair of wheels (130) disposed at lateral sides of the seat and being manually rotatable by the wheel chair

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occupant, wherein each wheel includes a rim (138) surrounded by a tire, each tire having a tire carcass (142) surrounded by a running profile,

wherein said offset angle is between 9 degrees and 16 degrees, and

wherein each wheel includes a driving ring (144) manually engageable by the wheelchair occupant to drive the wheel.

Minnebraker does not teach wherein the running profile of each of the tires is asymmetrically disposed with respect to a tire carcass center plane with portions of at least one of the running profile and carcass disposed laterally outward.

Harms teaches a tire having a running profile which is asymmetrically disposed with respect to a tire carcass center plane (26, see Figure 3) wherein portions of at least one of the running profile and carcass is disposable laterally outward. Such an asymmetric tread design helps steering, allowing for a larger profile tire surface inboard.

It would have been obvious to one of ordinary skill in the art at the time of the invention to modify the wheelchair assembly and tire Minnebraker to include wherein the running profile of each of the tires is asymmetrically disposed with respect to a tire carcass center plane with portions of at least one of the running profile and carcass disposed laterally outward, as taught by Harms, for better steering.

Response to Arguments

5. Applicant's arguments filed 13 April 2004 have been fully considered but they are not persuasive.

In general, applicant argues the prior art applied by the Examiner fails to teach the claimed invention.

Applicant argues Minnebraker offers nothing relevant to the claimed invention other than teaching wheelchair. The Examiner disagrees because Minnebraker teaches a wheelchair including, a wheelchair seat (38) for a wheelchair occupant, and a pair of wheels (130) disposed at lateral sides of the seat and being manually rotatable by the wheel chair occupant, wherein each wheel includes a rim (138) surrounded by a tire, each tire having a tire carcass (142) surrounded by a running profile, wherein said offset angle is between 9 degrees and 16 degrees, and wherein each wheel includes a driving ring (144) manually engageable by the wheelchair occupant to drive the wheel.

Specifically, note that the wheelchair of Minnebraker includes wherein each wheel includes a rim (138) surrounded by a tire, each tire having a tire carcass (142) surrounded by a running profile, wherein said offset angle is between 9 degrees and 16 degrees, and wherein each wheel includes a driving ring (144) which meets important elements of applicant's claim limitations.

Applicant further argues the instant invention is "configured to be smooth so as to *limit chafing of a wheel chair occupant's hands* when manually rotating a wheel with said tire mounted thereon", emphasis added, and that Harms is nonanalogous art which does not meet this limitation.

The Examiner has given this limitation little patentable weight because the susceptibility of the chaffing of a wheel chair users hands depends, in large part, on the specific hands of the wheel chair user. Applicant should present information which

discloses how the claimed invention is assured of limiting chaffing of all wheel chair users.

Further, the concept of "limit chaffing" is unclear. The application does not teach what is considered a limitation of chaffing of the wheel chair users hands. Applicant should distinguish the recited term "limit chafing" from inventions which do no limit chafing.

In response to applicant's argument that Harms is nonanalogous art, it has been held that a prior art reference must either be in the field of applicant's endeavor or, if not, then be reasonably pertinent to the particular problem with which the applicant was concerned, in order to be relied upon as a basis for rejection of the claimed invention. See *In re Oetiker*, 977 F.2d 1443, 24 USPQ2d 1443 (Fed. Cir. 1992). In this case, Harms is clearly in the field of tires.

It is the Examiner's position that tire technology and developments are applicable across a range of vehicles and one of ordinary skill in the art of tire profiles would consider developments for tire applications ranging from wheel chairs to bicycles and motor vehicles in designing tire features such as tread patterns which displace water and tire sidewall structure because it is understood the structure and elements of the tire are most often scalable.

Applicant further argues the tire of Harms would be mounted facing outwards of the vehicle and hence does not anticipate the instant invention.

It is the Examiner's position that one of ordinary skill in the art would consider using both sides of the tire when determine how to mount the tire. A feature such as the

steering ridge of Harms which helps form the smooth portion of the profile is understood to be mountable on a vehicle with the smooth portion facing either direction.

Applicant still further argues that where Harms suggests raised lettering maybe placed on the tire where, if Harms is applied to a wheelchair, applicant's hands would be abraded, this might cause injury (or insult?).

It is the Examiner's position that one of ordinary skill in the art of tires would not include the raised lettering if it would cause injury to the wheelchair occupant. Further, Harms indicates the letter *may* be included but does not require the inclusion of the lettering.

Allowable Subject Matter

6. Claims 12 and 20 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: The prior art does not show a wheelchair assembly and tire having the claimed limitations including a low friction coating on the portions configured to be smooth.

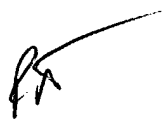
Conclusion

7. The indicated potential allowability of claims 9-10, and 13 are withdrawn in view of rejections based on the 35 U.S.C. 112, second paragraph presented in this Office Action.

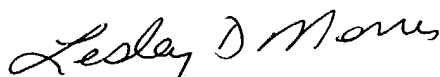
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul Royal whose telephone number is 703-308-8570. The examiner can normally be reached on 8:30-4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lesley D. Morris can be reached on 703-308-0629. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


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7/16/2004

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Art Unit 3611


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